

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 119 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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DHANLAXMIBEN CHHOTALAL PATEL

Versus

DISTRICT DEVELOPMENT OFFICER

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Appearance:

MR GM JOSHI for Petitioner  
Ms.Nandini Joshi, ASSTT.GOVERNMENT PLEADER for  
Respondent No. 1  
MR DN PATEL for Respondent No. 2  
RULE SERVED BY DS for Respondent No. 3

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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 08/09/2000

ORAL JUDGEMENT :

The present petition is filed by the petitioner against an order dated 29.8.1987 passed by the Additional Chief Secretary, Revenue Department (Appeals), rejecting

the revision application and confirming the order of levying the penalty 20 times of the special assessment and also confirming the order of removing the petitioner from the land. Mr.Joshi, learned advocate for the petitioner submitted that in view of the order passed by the City Deputy Collector dated 21.11.1970, permission under sec.63 of the Bombay Tenancy Act was granted in favour of the petitioner and in that order it was specifically mentioned that permission is granted to the occupant of survey no.2/3 of village Ranip, Taluka, City, namely, Naranbhai Parshottambhai Chaturbhai, etc. for putting the land for use of constructing a High School. Mr.Joshi has fairly conceded that it is true that in the said order it was mentioned that by one of the conditions being Condition No.3, that the petitioner will be required to take necessary permission under Rule 65 of the Bombay Land Revenue Code and the petitioner will also have to get the construction plans approved from the concerned Panchayat. Mr.Joshi pointed out that in the year 1980, the petitioner had paid an amount of Rs.3,387.50 paise to AUDA, which according to Mr.Joshi was paid for the purpose of regularisation. However, said position is not admitted by Shri D.N. Patel, learned advocate appearing for AUDA. It is submitted by Mr.Joshi that having obtained permission under sec.63 of the Tenancy Act, the petitioner was not required to obtain any other permission. He further submitted that other permissions required to be obtained, if any be deemed to have been granted in favour of the petitioner. At this juncture, Mr.Joshi submits that he will not like to join any issue with the authorities. Instead he will again approach the concerned authorities for seeking necessary permission. In light of the contents of the order dated 21.11.1970 (Annexure 'A' to the petition), Mr.Joshi agreed that any permission required to be taken from AUDA under relevant provisions of Gujarat Town Planning Act, will also be sought for. Mr.Joshi, however, requested that the time during which the petitioner is permitted to approach the concerned authorities, the interim relief which is granted by this Court be continued. The request being reasonable, deserves acceptance.

2. In the result, the petition is allowed. The impugned order, Annexure 'K' is hereby quashed and set aside. The petitioner is directed to approach the concerned authorities within a period of four weeks from the date of the receipt of a certified copy of this order and the concerned authorities shall decide the application made by the petitioner within a further period of eight weeks from the date of receipt of such

application. The decision taken by the authorities shall be communicated to the petitioner by Registered Post A.D. In the meantime, the ad interim relief granted by this Court shall continue.

3. Rule is made absolute to the aforesaid extent only. No order as to costs.

8th September 2000 (Ravi R. Tripathi, J.)

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